

### **REMARKS**

Claim 23 is pending and was previously presented.

Claim 23 stands rejected under 35 U.S.C. 102(e) as anticipated or, in the alternative, under 35 U.S.C. 103(a) as obvious over Beach (US Patent 5,936,140) because “the open language of the claim does not preclude overexpression of another protein” (emphasis added).

The currently pending claim recites “feed prepared from soybean seeds prepared by a method for simultaneously reducing the expression of two soybean genes comprising: . . . wherein the quantity of one or more members of a class of soybean seed storage protein subunits and the quantity of the protein encoded by the nucleic acid fragment of (a)(ii) is reduced when compared to soybeans not comprising the chimeric gene of step (a).” (emphasis added). Accordingly, the claimed invention clearly is directed to reducing expression of the genes of interest. Overexpression of a preselected protein is not within the scope of the claim in question.

In contrast, Beach teaches that overexpression of Brazil nut protein (“BNP”) reduced expression of KTI, BBI and/or GSTI, thus, resulting in the reduction or elimination of antinutritional protease inhibitors in the seed. Thus, preferential expression of a preselected protein (such as BNP) competes with synthesis of endogenous proteins such that the content of other endogenous proteins is reduced or eliminated.

It is respectfully submitted that the feed of the instant invention is patentably distinguishable from the feed described by Beach since the instant invention does not concern overexpression of a preselected protein in order to reduce or eliminate expression of an endogenous protein..

Accordingly, Beach does not teach or suggest the instant invention.

Withdrawal of the rejection of claim 23 under 35 U.S.C. 102(e) as anticipated or, in the alternative, under 35 U.S.C. 103(a) as obvious over Beach (US Patent 5,936,140) is respectfully requested.

It is respectfully submitted that the claims are now in form for allowance which allowance is respectfully requested.

Please charge any fees or credit any overpayment of fees, which are required in connection herewith to Deposit Account No. 04-1928 (E.I. DuPont de Nemours and Company).

Respectfully submitted,

/Lynne M. Christenbury/

Lynne M. Christenbury  
Attorney For Applicants  
Registration No. 30,971  
Telephone: 302-992-5481  
Facsimile: 302-892-1026

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